

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE, WESTERN DIVISION

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AUTO-OWNERS INSURANCE COMPANY

Plaintiff

vs.

No. 2:09-CV-02138

BURLISON GIN COMPANY, INC.,  
KELCOT WAREHOUSES, LLC,  
BOBBY RICHARDSON,  
JOHN PUGH  
and  
CLIFTON CLARK

Defendants

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CONSENT JUDGMENT

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This cause came before the Court upon the request of the parties to this action that this Consent Judgment enter fully and finally disposing of the issues presented in this action. The Court finds that the parties have reached an agreement whereby it is conceded and agreed that the exclusions to coverage set forth in the Complaint are applicable to the facts presented in the Tipton County tort action brought by Clifton Clark styled, "Clifton Clark vs. Kelley Enterprises, et al.", Tipton County Circuit Court No. 6430; however, the Plaintiff shall continue to provide a defense to its insureds to the Tipton County tort action referred to in the Complaint under the applicable policies identified in the Complaint in this cause through July 31, 2010, after which time the Plaintiffs' duty to defend shall cease. The Plaintiff shall have no liability or responsibility for payment of any judgment or costs or other obligation to indemnify its insureds against any judgment, settlement, costs or attorney fees. The Plaintiff has waived any claim for recovery of attorney fees and litigation expenses it has heretofore incurred in connection with the claims made by Clifton Clark in the Tipton County tort action.

Based upon the agreement of the parties as set forth above, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. Under the terms of the insurance policies issued to Burlison Gin Company and Kelcot Warehouses identified in the Complaint in this action, policy numbers 062319-03457487-06 and 4245748700, no liability coverage or duty to indemnify exists for the damages and injuries alleged by Clark in the Tipton County lawsuit. Further, Auto-Owners owes no duty to any party to provide coverage, defend the allegations made by Clark, or pay the liability of any insured party arising out of the spillage and clean-up of hazardous farm chemicals that occurred in Tipton County, Tennessee, on June 4, 2007, as alleged in Clark's Tipton County tort action.

2. The Plaintiff has agreed and shall continue to provide a defense to its insureds in the Tipton County Circuit Court tort action through July 31, 2010, after which date such defense shall cease. Plaintiff shall instruct counsel currently defending the Tipton County tort action to fully comply with Tennessee Rules of Professional Conduct 1.16(d) and cooperate in the transition of the defense of the tort action to replacement counsel, including the turnover on July 31, 2010, of defense counsel's entire file inclusive of all investigative reports, correspondence, pleadings, discovery, summaries, depositions, photographs and other documents.

3. The claim of Auto-Owners to a judgment against Burlison Gin Company, Inc., and Kelcot Warehouses, LLC, for reimbursement of the costs and expenses Auto-Owners has and will incur in the defense of the Tipton County lawsuit following Auto-Owners' declination of coverage is withdrawn and dismissed.

IT IS SO ORDERED.

*S/ Samuel H. Mays, Jr.*  
SAMUEL H. MAYS, JR.  
United States District Judge

*April 15, 2010*

CONSENTED TO AND APPROVED FOR ENTRY:

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